

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF OKLAHOMA

EARLENE CARR,)	
)	
Plaintiff,)	
)	
v.)	Case No: 5:22-cv-00782-JD
)	
HL MOTOR GROUP, INC.,)	
HIGHLIGHT MOTOR FREIGHT USA, INC.,)	
OLD REPUBLIC INSURANCE COMPANY,)	
GALLAGHER BASSETT SERVICES, INC.,)	
and OGNJEN MILANOVIC,)	
)	
Defendants.)	

DEFENDANTS' AMENDED NOTICE OF REMOVAL

Defendants, HL Motor Group, Inc., Highlight Motor Freight USA, Inc., Old Republic Insurance Company, Gallagher Bassett Services, Inc. and Ognjen Milanovic, by their attorneys, Lewis Brisbois Bisgaard & Smith LLP, pursuant to 28 U.S.C. §§ 1332(a) and 1441(b), for their Amended Notice of Removal, state as follows:

1. On August 5, 2022, plaintiff filed a Complaint against defendants in the District Court of Canadian County, Oklahoma, entitled *Earlene Carr v. HL Motor Group, Inc., et al.* (See Doc. 1-1).

2. Plaintiff generally avers that she suffered property damage resulting from an August 8, 2020 motor vehicle collision in Oklahoma City, Oklahoma when a vehicle owned by HL Motor Group, Inc. and/or Highlight Motor Freight USA, Inc. and operated by Mr. Milanovic struck her home. (*Id.*, ¶16).

3. Plaintiff further avers that said collision cause “significant damage to Plaintiff’s home and caused Plaintiff to incur significant expenses, which have not been reimbursed to Plaintiff.” (*Id.*).

4. On information and belief, plaintiff is a resident and citizen of Oklahoma. (*Id.*).

5. HL Motor Group, Inc. is a company that is organized and existing under the laws of Ontario, Canada. (*See* Doc. 1-2, ¶3).

6. For purposes of determining diversity jurisdiction, HL Motor Group, Inc. is a citizen of Ontario, Canada because its principal place of business, offices and distribution center are located in Ontario, Canada. (*Id.*, ¶4).

7. HL Motor Group, Inc. is not incorporated nor does it have a principal place of business in the State of Oklahoma. (*Id.*, ¶5).

8. For purposes of determining diversity jurisdiction, Highlight Motor Freight USA, Inc. is a citizen of New Jersey. (*Id.*, ¶¶7-9).

9. Highlight Motor Freight USA, Inc. is not incorporated nor does it have a principal place of business in the State of Oklahoma. (*Id.*, ¶10).

10. For purposes of determining diversity jurisdiction, Old Republic Insurance Company is a citizen of Ontario, Canada. (*See* Doc. 1-3, ¶¶4-5).

11. Old Republic Insurance Company is not incorporated nor does it have a principal place of business in the State of Oklahoma. (*Id.*, ¶6).

12. Gallagher Bassett Services, Inc. is an Australian corporation whose North American headquarters are located in Illinois. (*See* Doc. 1-4, ¶1).

13. For purposes of determining diversity jurisdiction, Gallagher Bassett Services, Inc. is not incorporated nor does it have a principal place of business in the State of Oklahoma. (*Id.*, ¶3).

14. The tractor vehicle operated by Mr. Milanovic at the time of the accident described in the Plaintiff's Complaint, was owned by HL Motor Group, Inc. (*See* Doc. 1-2, ¶15).

15. The trailer operated by Mr. Milanovic at the time of the accident described in the Plaintiff's Complaint, was leased by HL Motor Group, Inc. (*Id.*, ¶16).

16. On August 8, 2020, while engaged in the activity described in the Complaint in this matter, Mr. Milanovic was an employee of HL Motor Group, Inc. (*Id.*, ¶12).

17. Mr. Milanovic resides in and is a citizen of Ontario, Canada. (*Id.*, ¶14).

18. On September 2, 2022, defendants filed their Notice of Removal of plaintiff's Complaint. (*See* Doc. 1).

19. Prior to removing this action, two other companion state court cases, all averring the same facts and similar property damages to those averred in this case, were removed to the United States District Court for the Western District of Oklahoma: *Randy Lundy v. HL Motor Group, Inc. et al.*, Case No. 5:22-CV-00699-F; and, *Farmers Mutual Fire Insurance Company of Okarche v. HL Motor Group, Inc., et al.*, Case No. 5:22-CV-00752-F (the "companion cases").

20. Both of the companion cases averred damages in excess of \$75,000.00. However, the case at bar avers damages not in excess of \$75,000.00. (*See* Doc. 1-1).

21. On September 27, 2022, defendants filed a Motion to Consolidate the case at bar with the companion cases. (*See* Doc. 16).

22. All three cases arise from the same August 8, 2020 collision between a tractor trailer operated by Ognjen Milanovic and real property owned and/or insured by the respective plaintiffs.

23. All three cases involve similar allegations against similar defendants involving common questions of law and fact. Each defendant all three cases matters are represented by the same attorneys.

24. If allowed to proceed as separate lawsuits, duplicate written discovery, duplicate depositions, duplicative court appearances, and duplicate expert fees to testify in three separate cases on the same issues will greatly increase the cost to the parties involved. As such, Consolidation of the three lawsuits is warranted and proper pursuant to FRCP 42.

25. Moreover, neither plaintiff in this case or in the companion cases have filed a response in opposition to the Motions to Consolidate.

26. Here, there is complete diversity between plaintiff and defendants and the amount in controversy of the three cases exceeds \$75,000.00 as required by 28 U.S.C. § 1441(b).

27. By reason of the foregoing, this Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1332(a). There is complete diversity of citizenship, and the amount in controversy exceeds \$75,000.00, exclusive of costs. Removal of the state court action to this Court is therefore appropriate under 28 U.S.C. § 1441(b).

28. Removal of this action is timely under 28 U.S.C. § 1446(b) because this Notice of Removal was filed within thirty days after receipt by the defendants, through service or otherwise, of a copy of the pleading, motion, order or other paper from which it may first be ascertained that the case is one which is or has become removable. Moreover, this Notice of Removal was filed within one year after commencement of the action.

29. Pursuant to 28 U.S.C. § 1446(d), contemporaneous with this filing, defendants are serving a copy of this Notice of Removal upon plaintiff and filing a copy with the Clerk of the District Court of Canadian County, Oklahoma.

30. Defendants reserve the right to supplement this Notice of Removal and/or to present additional arguments in support of their entitlement to removal.

31. Removal is hereby effected without waiver of any challenges that defendants may have to personal jurisdiction, venue or service of process. Further, no admission of fact, law or liability is intended by this Notice of Removal, and all defenses, affirmative defenses and motions are hereby reserved.

WHEREFORE, Defendants, HL Motor Group, Inc., Highlight Motor Freight USA, Inc., Old Republic Insurance Company, Gallagher Bassett Services, Inc. and Ognjen Milanovic, request that this Honorable Court approval removal of the above-referenced action to the United States District Court for the Western District of Oklahoma.

Respectfully submitted,

HL Motor Group, Inc., Highlight Motor Freight
USA, Inc., Old Republic Insurance Company,
Gallagher Bassett Services, Inc. and Ognjen
Milanovic,

By: /s/ Michael T. Franz

One of Defendants' Attorneys

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Date: October 26, 2022

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